

**TO** : **Alternative Investment Fund Managers – AIFMs:**  
**i. Authorised Alternative Investment Fund Managers<sup>1</sup>**  
**ii. Registered Alternative Investment Fund Managers<sup>2</sup>**

**FROM** : **Cyprus Securities and Exchange Commission**

**DATE** : **7 June 2019**

**CIRCULAR No** : **C321**

**SUBJECT** : **Raising of capital from investors within a specified time period**

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The Cyprus Securities and Exchange Commission ('the CySEC') wishes herein to remind AIFMs on the requirement of raising capital from investors within twelve (12) months from the date when the funds under their management or itself, in case it is internally managed, were/was authorised. In particular:

#### **A. Regulatory Framework**

1. The Law 124(I)/2018 ('the AIF Law') provides the following with regards to the requirement of an Alternative Investment Fund - AIF<sup>3</sup>, an Alternative Investment Fund with limited number of persons - AIFLNP<sup>4</sup> and a Registered Alternative Investment Fund - RAIF<sup>5</sup> ('the Funds') established in the Republic, to raise capital from investors:

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<sup>1</sup> The term includes a) Cyprus based AIFMs and self-managed AIFs whose total asset under management ('AuM') exceed the thresholds of Articles 4(2)(a) or 4(2)(b) of the Alternative Investment Fund Managers Law ('AIFM Law') as the case may be, and b) Cyprus based AIFMs and self-managed AIFs whose Total AuM do not exceed the thresholds of Articles 4(2)(a) or 4(2)(b) of the AIFM Law, as the case may be, but have exercised the 'opting-in' possibility of Article 4(6) of the AIFM Law.

<sup>2</sup> The term includes Cyprus based AIFMs and self-managed AIFs whose Total AuM do not exceed the thresholds of article 4(2)(a) or 4(2)(b) of the AIFM Law, as the case may be, and have not exercised the 'opting-in' possibility of article 4(6) of the AIFM Law. For the avoidance of doubt, Registered AIFMs of the Republic comprise of: a) Cyprus Management Companies; b) Cyprus Investment Firms; c) the companies referred to in article 125(1)(b)(v) of the AIF Law; d) Self-managed AIFs under Part II of the AIF Law; and e) Self-managed AIFLNPs under Part VII of the AIF Law.

<sup>3</sup> As it is defined in article 2 of the AIF Law.

<sup>4</sup> As it is defined in article 2 of the AIF Law.

<sup>5</sup> As it is defined in article 2 of the AIF Law.



i. Article 14 of the AIF Law states that:

*“(1) (a) The AIF must, within twelve (12) months from the date its authorisation was granted, raise at least five hundred thousand euros (€500.000) worth of capital from investors:*

*It is provided that, for the purposes of this article, the capital commitments shall not be included in the calculation of the minimum level of assets:*

*It is further provided that, in the case of an umbrella AIF, the requirement for a minimum level of assets applies to each investment compartment.*

*It is furthermore provided that, in case of an internally managed AIF, the calculation of the minimum level of assets excludes the initial capital requirement under this Law.*

...

*(2) The payments made by investors towards the AIF, shall be made in cash or assets that relate to the investment policy of the AIF, and which are free of liens.*

*(3) The non-cash payments made by investors towards the AIF must be valued at the time of the payment, by an independent valuer who meets the requirements of Article 73 of Regulation (EU) No. 231/2013.”*

ii. Article 129 of the AIF Law states that:

*“(1)(a) The AIFLNP must, within twelve (12) months from the date its authorisation was granted, raise at least two hundred fifty thousand euros (€250.000) worth of capital from investors, and for the purposes of this article the capital commitments shall not be included in the calculation of the minimum level of assets:*

*It is provided that, in the case of an umbrella AIF, the requirement for a minimum level of assets applies to each investment compartment.*

*It is further provided that, in case of an internally managed AIFLNP, the calculation of the minimum level of assets excludes the initial capital requirement of this section (4).*

...

*(2) The payments made by investors towards the AIFLNP, shall be made in cash or assets that relate to the investment policy of the AIF, and which are free of liens.*



*(3) The non-cash payments made by investors towards the AIF must be valued at the time of the payment, by an independent valuer who meets the requirements of Article 73 of Regulation (EU) No. 231/2013.*

*(4) Without prejudice to the provisions of section (1), an internally managed AIFLNP shall have, at any time, either in cash or assets readily convertible to cash, an initial capital of at least fifty thousand euro (€50.000) · the own funds shall not be calculated in the assets of the AIFLNP which are used for investment purposes:...*  
”

iii. Article 136 of the AIF Law states that:

*“... the RAIF shall comply with article 14, regarding the minimum amount of assets raised by investors; ..., to the extent that they do not conflict with the provisions of the Alternative Investment Fund Managers Law.”*

## **B. Funds authorised/registered after the entry into force of the AIF Law**

2. Funds authorised/registered after the entry into force of the AIF Law, should raise from investors the amount of capital provided in articles 14, 129 and 136, depending on their type<sup>6</sup>, within twelve (12) months from the date of their authorisation/registration.
3. When the required amount of raised capital is reached for each fund/investment compartment under management, AIFMs should notify CySEC the soonest possible by completing and submitting [Form 124-00-02](#) (‘the Form’). It is provided that if no notification is received within 12 months from the date the fund’s/investment compartment’s authorisation/registration was granted, CySEC will start the procedure of withdrawing the authorisation according to Articles 53, 64, 75 and 133 of the AIF Law, whichever is applicable.
4. AIFMs are advised to take into consideration the provisions of articles 14, 129 and 136 of the AIF Law when calculating the amount of capital raised.
5. The Form should be accompanied by formal documentation evidencing the amount of capital raised.

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<sup>6</sup> AIF = €500.000, AIFLNP = €250.000, RAIF = €500.000



6. The Form and accompanying documents should be sent via email to [supervision.uci@cysec.gov.cy](mailto:supervision.uci@cysec.gov.cy) with subject 'Circular 321 – (insert the name of the Fund)'.

**C. AIF/AIFLNP authorised before the entry into force of the AIF Law**

7. In case where an AIF or AIFLNP was authorised before the entry into force of the AIF Law, it is clarified that the date of its authorisation is considered the date of entry into force of the AIF Law and in particular the 30<sup>th</sup> July of 2018.

This is emanated from the provisions of article 145 of the AIF Law, which states that *"The international collective investment schemes of article 144(3), AIFs, AIFLNPs and their external managers which were established and operating before the entry into force of this Law, must comply with any new obligation arising from this Law within twelve (12) months from the entry into force of this Law."*

8. In this case, it is expected that the raising of the required amount of capital will be completed by 30<sup>th</sup> July 2019.
9. Immediately after and not later than **5<sup>th</sup> August 2019**, AIFMs should notify CySEC by completing and submitting [Form 124-00-02](#) for each relevant fund and/or investment compartment. It is provided that if no notification is received by 5 August 2019, CySEC will start the procedure of withdrawing the authorisation according to Articles 53, 64, 75 and 133 of the AIF Law, whichever is applicable.
10. AIFMs are advised to take into consideration the provisions of articles 14, 129 and 136 of the AIF Law when calculating the amount of capital raised.
11. The Form should be accompanied by formal documentation evidencing the amount of capital raised.
12. The Form and accompanying documents should be sent via email to [supervision.uci@cysec.gov.cy](mailto:supervision.uci@cysec.gov.cy) with subject 'Circular 321 – (insert the name of the Fund)'.

Yours sincerely

Demetra Kalogerou  
Chairman of the Cyprus Securities and Exchange Commission